

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

October 13, 1999

SELECT ENERGY, INC.
Application for License to Operate as a
Competitive Electricity Provider

Docket No. 1999-614

ORDER GRANTING LICENSE

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we license Select Energy, Inc. to operate as a competitive electricity provider in Maine pursuant to Chapter 305 of the Commission's Rules.

II. APPLICATION

On September 2, 1999, Select Energy, Inc. applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305, which became effective on February 8, 1999. On September 24, 1999, Select Energy, Inc. filed additional information to correct and supplement its earlier filing.

A. Application Sufficient

The Administrative Director determined that Select Energy, Inc.'s application was complete and sufficient to meet the filing requirements of Chapter 305, and docketed the application in this proceeding on September 2, 1999.

B. Type of Service Proposed

Select Energy, Inc. proposes to sell electric service to the public at retail as a competitive electricity provider. Select Energy, Inc.'s application states that the proposed licensee plans to market a "portfolio of products and services that address both the 'supply-side' and 'demand-side' energy related needs" to all customer classes throughout Maine.

C. Fee Paid

With its application, Select Energy, Inc. paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

III. FINANCIAL ISSUES

A. Security

Section 2(B)(1)(a)(i) of Chapter 305 states that “a license will not be issued or remain in force until the applicant or licensee furnishes a surety bond or letter of credit” meeting requirements of that rule. The initial security level is set by section 2(B)(1)(a)(ii) as \$100,000.

Select Energy, Inc. has furnished a surety bond in the amount of \$100,000 as its security instrument, with supporting materials as required by section 2(B)(1)(a)(iv) of Chapter 305. We have reviewed that instrument and find that it conforms to the requirements of Chapter 305.

B. Showing of Professional and Financial Capability

We find that the security instrument provided by Select Energy, Inc. as described above demonstrates that Select Energy, Inc. has financial capability to engage in its proposed business as a competitive electricity provider in Maine.

IV. TECHNICAL ISSUES

A. Showing of Technical Capability

Select Energy, Inc., as a competitive electricity provider in Maine, must demonstrate it has the technical ability to enter necessary interconnection arrangements or contracts with Maine utilities, pursuant to section 2(B)(2)(a) of Chapter 305. In its application, Select Energy, Inc. provided information demonstrating its ability to enter into such arrangements or contracts, although it stated it had not yet reached such agreements. Accordingly, Select Energy, Inc. shall not act to enroll customers or provide generation service until all required contracts have been executed consistent with Commission rules. Select Energy, Inc. shall notify the Commission when all such contracts have been executed.

Section 2(B)(2)(b) of Chapter 305 requires an applicant to demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity meeting all applicable requirements for the bulk power system control area in which the applicant would provide service. Select Energy, Inc. filed information to demonstrate its technical capability to meet that requirement within the NEPOOL/ISO-NE portion of the Northeast Power Coordinating Council control area. We have reviewed that information and find that it complies with the requirements of Chapter 305. Select Energy, Inc. also documented that it will meet the NEPOOL transaction provisions required by section 2(B)(2)(b)(ii) of Chapter 305.

B. Resource Portfolio

Select Energy, Inc., as a competitive electricity provider in Maine, pursuant to section 2(B)(4) of Chapter 305, must demonstrate its ability to meet the resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules. Select Energy, Inc. filed information to demonstrate its ability to meet these requirements. We have reviewed that information and find that it complies with the requirements of Chapter 305.

V. CONSUMER PROTECTION ISSUES

A. Showing of Fitness

In its application, Select Energy, Inc. provided information required by Chapter 305 section 2(B)(3) related to enforcement proceedings and customer complaints. We have reviewed that information and find that it meets the requirements of Chapter 305.

B. Ability to Comply with Consumer Protection Rules

Select Energy, Inc. provided information demonstrating its ability to comply with the applicable consumer protection requirements of Chapter 305 and other consumer protection requirements pursuant to 35-A M.R.S.A. Chapter 32 and other relevant provisions of Maine law. We have reviewed that information and find that it meets the requirements of Chapter 305.

C. Do-Not-Call List

Chapter 305 section 4(l) states that "[t]he Commission will maintain or cause to be maintained a 'Do-Not-Call' list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers." We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, Select Energy, Inc. shall comply with the following requirements.

Select Energy, Inc. must comply with the requirements of the Telephone Consumer Protection Act,¹ the Telemarketing and Consumer Fraud and Abuse Prevention Act,² and related rules of the Federal Communications Commission³ and Federal Trade

¹47 U.S.C. § 227

²15 U.S.C. §§ 6101-6108

³47 CFR 64.1200

Commission.⁴ Select Energy, Inc. must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business customers. Select Energy, Inc. shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1). Select Energy, Inc. shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. Select Energy, Inc. shall provide a copy of that list to the Commission upon request.

Further, each month, Select Energy, Inc. must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.⁵ Select Energy, Inc. shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1).

VI. ADDITIONAL PROVISIONS

Select Energy, Inc. must comply with all applicable requirements and limitations in Chapter 305 not explicitly waived in this Order. Select Energy, Inc. must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

VII. ORDERING PARAGRAPHS

Accordingly, we

1. license Select Energy, Inc. to operate as a competitive electricity provider in Maine, pursuant to Chapter 305 of the Commission's Rules;
2. order Select Energy, Inc. to comply with all Do-Not-Call List requirements contained in Part V(C) of this Order to the extent that it telemarkets to Maine consumers; and
3. order that this license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

⁴FTC Telemarketing Sales Rule, 16 CFR Part 310

⁵Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

Dated at Augusta, Maine, this 13th day of October, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission to the Maine Supreme Judicial Court, sitting as the Law Court, is not available, as provided in 47 U.S.C. § 252(e)(6).
3. Review of this discussion is available to an aggrieved party by bringing an action in federal district court, as provided in 47 U.S.C. § 252(e)(6).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.